



Congressional Record

PROCEEDINGS AND DEBATES OF THE 93^d CONGRESS, SECOND SESSION

Vol. 120

WASHINGTON, MONDAY, SEPTEMBER 16, 1974

No. 138

House of Representatives

The House met at 12 o'clock noon.

Lt. Col. James M. Thurman, Office of Chief of Air Force Chaplains, Washington, D.C., offered the following prayer:

Eternal God, Lord of the years, the days, and the hours, we begin this new week with the prayer that we may feel Your presence each moment of each day.

We give You thanks for the weekend past, and the chance to get away from some of the daily pressures.

We want to do more than just survive this week. Help us to use our time rather than be used by it.

Bless the President, the Congress, the courts, and help us all as public servants to recognize and to value the person behind each face and each vote.

May "hope" become more than a word in some life this day because of what is done here.

We offer our prayers in faith and trust. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment joint resolutions and a concurrent resolution of the House of the following titles:

H.J. Res. 910. Joint resolution asking the President of the United States to declare the fourth Saturday of September 1974, "National Hunting and Fishing Day";

H.J. Res. 1070. Joint resolution authorizing the President to proclaim the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month"; and

H. Con. Res. 628. Concurrent resolution authorizing the Clerk of the House to make certain corrections in the enrollment of the bill H.R. 14883.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1283) entitled "An act to establish a national program

for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. METCALF, Mr. JOHNSTON, Mr. HASKELL, Mr. NELSON, Mr. HATFIELD, Mr. BUCKLEY, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 87. Concurrent resolution recognizing the centennial anniversary of the University of Nevada.

The message also announced that Mr. STEVENS be appointed as a conferee on the bill (S. 355) entitled "An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote traffic safety by providing that defects and failures to comply with motor vehicle safety standards shall be remedied without charge to the owner, and for other purposes" in lieu of Mr. COOK, excused.

[Mr. NICHOLS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

EMERGENCY TOBACCO PRICE SUPPORT INCREASE

The Clerk called the bill (H.R. 16056) to provide for emergency increases in the support level for the 1974 crop of Flue-cured tobacco.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PEYSER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LAND CONVEYANCE TO STATE OF NEW YORK

The Clerk called the bill (H.R. 7954) to direct the Secretary of Agriculture to release on behalf of the United States conditions in a deed conveying certain lands to the State of New York and to provide for the conveyance of certain interests in such lands so as to permit such State, subject to certain conditions, to sell such land.

There being no objection, the Clerk read the bill as follows:

H.R. 7954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)), the Secretary of Agriculture is authorized and directed to release, on behalf of the United States, with respect to the following described land, the condition in a deed dated January 28, 1961, between the United States and the State of New York, conveying certain lands in Allegany County in the State of New York to the State of New York, of which such described land is a part, which requires that the lands so conveyed be used for public purposes and provides for a reversion of such land to the United States if at any time it ceases to be used:

A parcel or tract of land consisting of approximately 42 acre, being a portion of the lands conveyed by such deed dated January 28, 1961, being in the town of New Hudson, county of Allegany, State of New York, being part of lot 47 in such town which begins at the southwest corner of the existing cemetery lot, thence south on a line that is the continuation of the west line of said existing cemetery lot a distance of 100 feet to a point; thence east and parallel to the south line of said existing cemetery lot a distance of 185 feet to a point on the continuation of the east line of said existing cemetery lot; thence north along the said continuation of said east line a distance of 100 feet to the southeast corner of said existing cemetery lot; thence west along the south line of said existing cemetery lot a distance of 185 feet to the place of beginning.

SEC. 2. The Secretary shall release the condition referred to in the first section of this Act only with respect to land covered by and described in any agreement or agreements entered into between the Secretary of Agriculture and the State of New York in which such State in consideration of the release of such conditions as to such land agrees to convey the land with respect to which such condition is released to the Bellview Cemetery

H 9253

Association for a fair and equitable consideration.

Sec. 3. Upon application all the undivided mineral interests of the United States in any parcel or tract of land, released pursuant to this Act from the condition as to such lands, shall be conveyed to the State of New York for the use and benefit of the State by the Secretary of the Interior. In areas where the Secretary of the Interior determines that there is no active mineral development or leasing, and that the lands have no mineral value, the mineral interests covered by a single application shall be sold for a consideration of \$1. In other areas the mineral interests shall be sold at the fair market value thereof as determined by the Secretary of the Interior after taking into consideration such appraisals as he deems necessary or appropriate.

Sec. 4. Each application made under the provisions of section 3 of this Act shall be accompanied by a nonrefundable deposit to be applied to the administrative costs as fixed by the Secretary of the Interior. If the conveyance is made, the applicant shall pay to the Secretary of the Interior the full administrative costs less the deposit. If a conveyance is not made pursuant to an application filed under this Act, the deposit shall constitute full satisfaction of such administrative costs notwithstanding that the administrative costs exceed the deposit.

Sec. 5. The term "administrative costs" as used in this Act includes, in addition to other items, all costs which the Secretary of the Interior determines are included in a determination of (1) the mineral character of the land in question, and (2) the fair market value of the mineral interest.

Sec. 6. Amounts paid to the Secretary of the Interior under the provisions of this Act shall be paid into the Treasury of the United States as miscellaneous receipts.

With the following committee amendments:

Page 3, line 4 strike out the word "Bellview", and insert in lieu thereof the word "Bellville".

Page 3, line 19 strike out lines 19 through 25; page 4, line 1 strike out lines 1 through 3 and insert in lieu thereof the following:

"Sec. 4. The Secretary of the Interior shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is, or is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs the Secretary shall refund the excess."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDMENT OF MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964, AS AMENDED, WITH RESPECT TO SETTLEMENT OF CLAIMS AGAINST UNITED STATES BY MEMBERS OF UNIFORMED SERVICES AND CIVILIAN OFFICERS AND EMPLOYEES FOR DAMAGE TO, OR LOSS OF, PERSONAL PROPERTY INCIDENT TO THEIR SERVICE

The Clerk called the bill (H.R. 7135) to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settle-

ment of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service.

There being no objection, the Clerk read the bill as follows:

H.R. 7135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(a) (1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended), is amended by striking out "\$10,000" and inserting in place thereof "\$12,000", and

(b) Section 3(b) (1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended), is amended to read as follows:

"(b) (1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and under such regulations as the head of an agency, other than a military department, the Secretary of the Treasury with respect to the Coast Guard, or the Department of Defense, may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than \$12,000 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment.

Sec. 2. Section 1 of this Act is effective August 31, 1964, for the purpose of reconsideration of settled claims as provided in this section. Notwithstanding section 4 of the Military Personnel and Civilian Employees' Claims Act of 1964, or any other provision of law, a claim heretofore settled in the amount \$6,500 solely by reason of the maximum limitation established by section 3(b) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, or a claim heretofore settled in the amount of \$10,000 solely by reason of the maximum limitation established by section 3(a) of that Act, may, upon written request of the claimant made within one year from the date of enactment of this Act, be reconsidered and settled under the amendments contained in section 1 of this Act.

With the following committee amendments:

Page 1, line 5: After "amended" insert "31 U.S.C. 241(a) (1)".

Page 1, line 6: Strike "\$12,000" and insert "\$15,000".

Page 2, line 3: After "amended", insert "31 U.S.C. 241(a) (1)".

Page 2, line 7: Strike "Treasury" and insert "Transportation".

Page 2, line 11: Strike "\$12,000" and insert "\$15,000".

Page 2, lines 20 through 25, and page 3, lines 1 through 8: Strike all of section 2, and insert:

"Sec. 2. The amendments provided in this Act shall apply to claims based upon losses of personal property which occur after the effective date of this Act."

The committee amendments were agreed to.

Mr. DANIELSON. Mr. Speaker, the bill—H.R. 7135—would fix \$15,000 as the limit for amounts paid for losses of personal property of military and civilian personnel of the Federal Government incident to their service, and the bill would

further make that limit applicable uniformly to all agencies and departments.

The bill—H.R. 7135—as amended by the committee, would amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243), to increase from \$10,000 to \$15,000 the limit on amounts of claims for damage to or loss of personal property incident to service which may be paid by—

The Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

The Secretary of Transportation, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy; or

The Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard.

H.R. 7135, as amended by the committee, would, in addition, increase to \$15,000 the amount of such a claim which may be paid by the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency. Some of these other agencies now may pay a claim for no more than \$10,000; some only a claim for no more than \$6,500.

As to the military departments and the Coast Guard, the present limitation on the payment of personal claims incident to service was established in 1965. The elements of the Department of Defense and the Coast Guard have demonstrated their ability to administer this act, as well as the other laws authorizing payment of claims against the United States, with fairness to the claimants and concern for the protection of the public funds. Since the \$10,000 limitation was established, the cost of repairing or replacing property of the type whose loss or damage may give rise to claims within the terms and purpose of this act has increased significantly. The increase is due primarily to the general inflationary trend which has raised the price of virtually all household items.

One method of calculating increased costs of such goods is the Consumer Price Index. According to the U.S. Bureau of Labor Statistics, the Consumer Price Index in May 1964 was 92.7, and in May 1973 it was 131.5, an increase of 41.9 percent. If this increase is correlated with the congressional intent in 1945, when the \$10,000 limit was established, at least \$14,190 would be required to provide the same protection today. A \$15,000 limit appears to be more in line with the current value of such property or its repair. An increase in the limit to \$15,000 would thus serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, of Government personnel. As to the Armed Forces such protection would be a further inducement for entering and

continuing membership in the Armed Forces.

The additional cost to the Government is not possible of exact computation since it would relate only to those cases of large loss which would exceed the present limits. An indication of the potential for such losses can be gained from the report of the Department of the Air Force which details the experience of the military services as to claims which exceeded the \$10,000 limit in the period since July 1, 1969. In that period the Army had 53 such claims, the Navy 42 and the Air Force 53.

I would like to explain that the committee amendments delete a retroactive effect originally provided in the bill. As originally introduced, the bill provided for a measure of retroactive effect in that it would have permitted a reconsideration of previously adjudicated claims to the extent of providing authority for the payment of proven losses which were not paid because of the previous limit for payments. It would have permitted payments up to the new limit upon application within 1 year of the effective date of a new law. However, the committee recommended an amendment striking this provision. It is felt that the new limit should have prospective force only.

In summary, therefore, it can be said that section 3 of the act now provides for a limit of \$10,000 as to the military departments and the Coast Guard in subsection (a), and in subsection (b) there is a limit of \$6,500 for civilian departments or agencies, but as a result of a 1972 amendment, the Peace Corps, the Overseas Private Investment Corporation, State Department, AID, USIA, and the U.S. Arms Control and Disarmament Agency have a \$10,000 limit. As I have stated, the amended bill would provide a uniform limit of \$15,000 for all agencies and departments.

It is recommended that the amended bill be considered favorably.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service."

A motion to reconsider was laid on the table.

CITY OF ARANSAS PASS, TEX., AND THE URBAN RENEWAL AGENCY OF THE CITY OF ARANSAS PASS, TEX.

The Clerk called the bill (H.R. 9588) for the relief of the city of Aransas Pass, Tex., and the Urban Renewal Agency of the city of Aransas Pass, Tex.

There being no objection, the Clerk read the bill as follows:

H.R. 9588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That not

withstanding any other provision of this Act or title I of the Housing Act of 1949, as amended, the Secretary of Housing and Urban Development is authorized and directed to release the city of Aransas Pass, Texas, and the Urban Renewal Agency of the city of Aransas Pass, Texas, from the obligations of their agreement with the Department of Housing and Urban Development entered into in connection with the closeout of the project numbered Tex. R-92, to provide payments of any kind for any deficit local grants-in-aid to said project. Said release shall be effective as of the original date of closeout: *Provided*, That nothing herein shall be construed to relieve the city of Aransas Pass, Texas, from its contractual obligations with respect to the unsold project land.

Mr. DANIELSON. Mr. Speaker, the bill H.R. 9588 would release the city of Aransas Pass, Tex., and its urban renewal agency from the obligation to repay a Housing and Urban Development Department loan of \$166,735.

This would be done by waiving provisions of title I of the Housing Act of 1949 and directing the Secretary of Housing and Urban Development to release the city of Aransas Pass, Tex., and the urban renewal agency of that city from the obligations of this agreement with the Department of Housing and Urban Development concerning payments from any deficit in local grants-in-aid in connection with the closeout of the project numbered Tex. R-92. The bill provides that the city will not be relieved of contractual obligations in respect to unsold project land.

The Department of Housing and Urban Development in its report to the committee stated it had no objection to the bill because of the particular circumstances of the matter.

The indebtedness referred to in H.R. 9588 arises out of an urban renewal project known as the Golden Palms project (Texas R-92). In December 1965, survey and planning on the project was processed through the Fort Worth office of HUD. After review and analysis by HUD personnel, their recommendation for approval was sent to the HUD office in Washington, and approval for execution of the project by HUD Washington was received in March 1968.

The Aransas Pass Urban Renewal Agency immediately began to acquire the necessary property. Of 400 parcels of land acquired, 24 had to be obtained by condemnation proceedings. When the property acquisition finally had been completed, Hurricane Celia struck with devastating force, causing massive destruction in Aransas Pass. As a direct result the city could not continue or complete the project. The seawall played a vital role in the protection of the downtown business district and residential area, and prevented an estimated \$1 million of additional damage. The project required cuts in the seawall which were basic to the urban renewal project, which from the beginning called for an integrated marina design. Thus, HUD, the city and the urban renewal agency reached the conclusion that the project was both economically and physically infeasible. Thus, the engineering problem with the seawall, the state of destruction of the city following

the hurricane, and the city's dire financial circumstances eliminated any hope for the city to carry out the Golden Palms urban renewal project.

The city entered into negotiations with HUD which culminated in a contract converting the project from a non-assisted loan project, to a conventional project. While this contract conversion did assist them a great deal, it still left the city with a debt obligation of approximately \$166,735 plus interest, none of which the city is able to meet because of this very disastrous situation.

The situation is such that the city faces this indebtedness as a result of their agreement to carry out an urban renewal project which when measured by established standards at its inception appeared feasible to HUD experts and received the approval of HUD central office in Washington. The circumstances are now completely changed. Subsequent developments including the hurricane made completion of the project impossible. Interest on the debt continues to accrue daily and the city is without resources to meet increment payments.

In stating it had no objection to relief, the Department of Housing and Urban Development stated:

The City of Aransas Pass is a small city with a predominantly low to moderate income population of under 10,000. It is our understanding that the 1970 hurricane destroyed most of the City and eliminated most of its tax base. It has since been faced with the considerable financial burden of rebuilding its community facilities, including repairing its seawall to prevent future flooding. In order to repay the HUD loan, the City would have to raise taxes and defer expenditures for vital municipal improvements.

In view of the hardship that repayment would undoubtedly cause the City and the unique nature of the situation this Department would have no objection to enactment of H.R. 9588.

It recommended that the bill be considered favorably.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CERTAIN FIRE DISTRICTS AND DEPARTMENTS IN THE STATE OF MISSOURI

The Clerk called the bill (H.R. 11847) for the relief of certain fire districts and departments in the State of Missouri to compensate them for expenses relating to a fire on Federal property.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HINSHAW. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

The Clerk called the Senate bill (S. 2362) granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad compact.

There being no objection, the Clerk read the bill as follows:

S. 2862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent and approval of Congress is hereby given to the Cumbres and Toltec Railroad Compact as agreed to by the States of Colorado and New Mexico, which compact is as follows:

"CUMBRES AND TOLTEC SCENIC RAILROAD

"The State of New Mexico and the State of Colorado, desiring to provide for the joint acquisition, ownership, and control of an interstate narrow gauge scenic railroad, known as the Cumbres and Toltec Scenic Railroad, within Rio Arriba County in New Mexico and Archuleta and Conejos Counties in Colorado, to promote the public welfare by encouraging and facilitating recreation and by preserving, as a living museum for future generations, a mode of transportation that helped in the development and promotion of the territories and States, and to remove all clauses of present and future controversy between them with respect thereto, and being moved by considerations of interstate comity, have agreed upon the following articles:

"ARTICLE I

"The States of New Mexico and Colorado agree jointly to acquire, own and make provision for the operation of the Cumbres and Toltec Scenic Railroad,

"ARTICLE II

"The States of New Mexico and Colorado hereby ratify and affirm the agreement of July 1, 1970, entered between the railroad authorities of the States.

"ARTICLE III

"The States of New Mexico and Colorado agree to make such amendments to the July 1, 1970, agreement and such other contracts, leases, franchises, concessions, or other agreements as may hereafter appear to both States to be necessary and proper for the control, operation, or disposition of the said railroad.

"ARTICLE IV

"The States of New Mexico and Colorado agree to the consideration of the enactment of such laws or constitutional amendments exempting the said railroad or its operations from various laws of both States as both States shall hereafter mutually find necessary and proper.

"ARTICLE V

"Nothing contained herein shall be construed so as to limit, abridge, or affect the jurisdiction or authority, if any, of the Interstate Commerce Commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operation."

Sec. 2. The right to alter, amend, or repeal this Act is expressly reserved.

Amend the title so as to read: "An Act granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact."

With the following committee amendment:

On page 1, line 3 of the bill strike out the words "and approval."

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "Granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact."

A motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of the eligible bills on the Consent Calendar.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent with respect to Consent Calendar items Nos. 101 and 102, H.R. 7135 and H.R. 9588, that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11452, RATE OF DUTY APPLICABLE TO CRUDE FEATHERS AND DOWNS

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11452) to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS, ULLMAN, BURKE of Massachusetts, SCHNEEBELI, and COLFER.

SUBPENA IN CONNECTION WITH POSSIBLE VIOLATION OF 18 U.S.C. 608

Mr. McFALL. Mr. Speaker, on Thursday of last week the Clerk of the House of Representatives advised the House that he had been served with a subpoena duces tecum issued by the U.S. District Court for the southern district of New York.

The SPEAKER laid the matter before the House, and the letter from the Clerk and the subpoena appear in the CONGRESSIONAL RECORD of Thursday, September 12, at page H9227.

Mr. McFALL. Mr. Speaker, I offer a privileged resolution (H. Res. 1365) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1365

Whereas in a Grand Jury Investigation pending in the United States District Court for the Southern District of New York, a subpoena duces tecum was issued by the said court and addressed to W. Pat Jennings, Clerk of the House of Representatives, directing him to appear as a witness before the grand jury of the said court at 10:00 o'clock antemeridian on the 16th day of September, 1974, and to bring with him certain papers and documents in the possession and under the control of the House of Representatives; Therefore be it

Resolved, That by the privileges of the House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control

or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That W. Pat Jennings, Clerk of the House, or any officer or employee in his office whom he may designate, be authorized to appear at the place and before the grand jury in the subpoena duces tecum before-mentioned, but shall not take with him any papers or documents on file in his office or under the control or in the possession of the House of Representatives; be it further

Resolved, That when the said court determines upon the materiality and the relevance of the papers and documents called for in the subpoena duces tecum, then the said court, through any of its officers or agents, be authorized to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in possession or custody of the said Clerk; and the Clerk is authorized to supply certified copies of such documents or papers in his possession or control that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; and be it further

Resolved, That as a respectful answer to the subpoena duces tecum a copy of these resolutions be submitted to the said Court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.
August 23, 1974.

HON. CARL ALBERT,
Speaker, House of Representatives.

DEAR SIR: On this date, I have been served with a subpoena duces tecum by a representative of the U.S. Department of Justice, that was issued and signed by the Chief Judge for the U.S. District Court for the District of Columbia. This subpoena is in connection with a possible violation of 26 U.S.C. 7205.

The subpoena commands me or my authorized representative to appear in the said U.S. District Court for the District of Columbia on the 20th day of September, 1974, and requests certain House records of an employee of a former Member, Congressman John G. Schmitz, 36th Congressional District, California, that are outlined in the subpoena itself, which is attached hereto.

House Resolution 12 of January 3, 1973, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of cer-

1948, a period not covered by the Court of Claims decision. "The Department of the Navy has been advised that S. Res. 203 has been introduced to effect the referral of S. 2698 to the Court of Claims for a finding of facts and the formulation of conclusions sufficient to inform the Congress whether Mr. Egan's claim is in law or in equity or is a gratuity, and of the amount, if any, which is legally or equitably due him.

"In view of the foregoing, the Department of the Navy has no objection to the enactment of S. Res. 203. The Department of the Navy recommends that no action be taken on S. 2698 pending receipt by the Committee of a report from the chief commissioner of the Court of Claims."

The Committee, in the consideration of this legislation, believes that there are sufficient facts set forth to justify the finding that the resolution should be referred to the Chief Commissioner of the Court of Claims to report thereon, giving his findings of fact and conclusions sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, and the amount, if any, which might be due from the United States. Accordingly, the Committee recommends favorable consideration of Senate Resolution 203, without amendment.

Favorable action on this resolution would be in accordance with establish precedents.

DONALD L. TYNDALL, ET AL.

The bill (H.R. 3532) for the relief of Donald L. Tyndall, Bruce Edward Tyndall, Kimberly Fay Tyndall, and Lisa Michele Tyndall was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1202), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to pay the persons named below the amounts shown in full settlement of their claims against the United States for medical and hospital expenses, funeral expenses, personal injuries, death, property damage and other damage resulting from an automobile accident involving a U.S. Marine Corps truck driven by a member of the Marine Corps which occurred in North Carolina near the town of Beulaville on October 5, 1967.

Donald L. Tyndall, \$24,000.00

Bruce Edward Tyndall, a minor, \$12,000.00.

Kimberly Fay Tyndall, a minor, \$2,000.00.

Lisa Michele Tyndall, a minor, \$12,000.00.

The bill would provide the payments in behalf of the minors would be paid to the Clerk of the Superior Court of Duplin County, North Carolina to be administered under North Carolina general statute 7A-111 entitled "Receipts and Disbursements of Insurance and other Moneys of Minors and Incapacitated Adults".

STATEMENT

The facts of this case, as contained in House Report 93-1005, are as follows:

"On the evening of October 5, 1967, Donald L. Tyndall, then 24 years of age, with his wife Elizabeth—24, and their three small children, was driving a 1967 Chevrolet on Highway 24 in Duplin County, North Carolina near the town of Beulaville. While apparently attempting to pass another vehicle, Private First Class Robert H. Braathe, U.S. Marine Corps, drove a Government owned six wheel stake truck head on into the Tyndall vehicle. The Tyndall car was totally de-

stroyed, Mrs. Elizabeth M. Tyndall was killed and Donald L. Tyndall and their children all suffered injuries. Private First Class Braathe was also killed in the collision. Subsequent investigation indicated that the Marine driver was intoxicated and had taken the truck without permission. As a result of the foregoing circumstances and a subsequent court proceeding, it was held that the Marine driver was not acting within the scope of his employment. The action was brought in a United States district court under the Federal Tort Claims Act but the determination as to lack of official duty status was the basis of a dismissal. The decision was affirmed on appeal.

"A subcommittee hearing on the bill H.R. 3532 was held on October 31, 1973. In addition to the testimony presented at the hearing, the subcommittee requested and received from the Department of the Navy copies of depositions taken in 1968 of witnesses in the civil proceedings in the Federal Court, *Donald L. Tyndall v. United States*; statements obtained from witnesses in the course of the investigation by Marine authorities of the accident; and a copy of the Marine Corps investigation report of the accident. On the basis of its consideration of all the facts of the matter, this committee has concluded that this is an appropriate case for legislative relief in the reduced amounts recommended in the committee amendment. As outlined in its report on the bill, the Department of the Navy has opposed relief. However, the Navy position as amplified by its testimony at the hearing, is primarily based upon the right of the claimants to recover under the law applicable to tort proceedings or the laws governing administrative relief administered by the Department. The bill H.R. 3532 embodies an appeal to Congress for the redress of grievances. The Navy report itself recognizes that legislative action in cases such as these is based upon a congressional recognition of a moral obligation. Of course, this authority extends beyond the departmental authority referred to by the Navy which is provided in section 2737 of Title 10 of the United States Code.

"The power of Congress to recognize moral or equitable claims has been exercised since the early days of the Republic. The Supreme Court in the case of *United States v. Realty Co.*, 163 U.S. 427 (1896) commented on this power of Congress. The court pointed out that the language of Article 1, section 8 of the power to lay and collect taxes "to pay the the Constitution provides the Congress with the power to lay and collect taxes "to pay the debts of the United States." It held that these debts are not limited to those evidenced by some written obligation or those of a strictly legal character. Specifically, the Court stated that:

"The nation, speaking broadly, owes a 'debt' to an individual when his claim grows out of general principles of right and justice; when, in other words it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law. The power of Congress extends at least as far as the recognition and payment of claims against the government which are thus founded . . ."

"The committee finds that the facts and circumstances of this case do involve particular equities which provides the basis for relief.

"The facts developed by the investigation establish that this accident was caused by a Marine who was operating the truck. The same investigation made it clear that the acts and omissions of other Marine Corps personnel in failing to take appropriate action, created a set of circumstances that enabled an intoxicated member of the Marine Corps to gain access to the keys of a truck after having been observed to have been un-

der the influence of alcohol, appropriate that truck and drive it through a guarded gate of the Marine facility onto a public highway. He then caused an accident, the consequences of which have been borne by the Tyndall family without compensation.

"The Navy investigation found that the Marine who took the truck was observed by a number of persons on the Marine base who subsequently testified that he was under the influence of alcohol when they saw him prior to his taking the truck. The investigation also stated that he was observed in the barracks with alcoholic beverage contrary to existing regulations prior to taking the vehicle. The investigation further found that the vehicle taken by the Marine was not turned in to the Motor Pool on the day it was taken in accordance with existing orders and verbal instructions. It was also found that the keys were not removed from the vehicle in accordance with applicable Marine regulations.

"The committee feels that the most significant omission in this case was the failure on the part of Marine personnel to properly control the vehicle and, in particular, the failure to stop the vehicle from leaving the base. The investigation found that the Marine Private left the Marine Corps Air facility at about 10:00 P.M. on October 5, 1967 through or adjacent to the main gate with the Government vehicle and that the gate sentries either failed to notice the truck or failed to attempt to stop it. The findings in the investigation included a statement that the physical area of the base is such that it prohibits the exit of any wheeled vehicles from the facility except in an area within 40 yards of the main gate.

"The committee points out that had proper diligence been exercised concerning the matters outlined above, this tragic accident could have been averted. The committee amendment provides for payments based on general principles of equity and justice. It should also be noted that, as provided in the committee amendment to the bill, the payments in behalf of the minor children would be made to the Clerk of the Superior Court of Duplin County, North Carolina, to be administered under North Carolina general statute 7A-111 entitled "Receipts and Disbursements of Insurance and other Moneys of Minor and Incapacitated Adults." The committee has been advised that this North Carolina statute would make it possible for the court to supervise the administration and disbursement of the funds paid in behalf of the minor children as provided in the amended bill. It is concluded that the facts of the matter justify the payments provided for in the committee amendment and it is recommended that the bill be considered favorably."

In agreement with the views of the House of Representatives this Committee recommends that the bill be favorably considered.

THOMAS C. JOHNSON

The bill (H.R. 6202) for the relief of Thomas C. Johnson was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1203), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Thomas C. Johnson of liability in the sum of \$2,382.94 for overpayments of active duty pay as a member of the United

S 18126

CONGRESSIONAL RECORD — SENATE

October 3, 1974

1969, which liability arose as the result of States Army from July 5, 1967, to July 4, an administrative error in crediting him with service in the Advanced Reserve Officers' Training Corps program.

AMENDMENT OF THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964

The bill (H.R. 7135) to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damages to, or loss of, personal property incident to their service, was considered, ordered, to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1204), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to amend section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964, to increase the limit on payments for losses of personal property incident to federal service from \$10,000 to \$15,000.

STATEMENT

The facts of this case, as contained in House Report number 93-1320, are as follows:

"The Department of State and the Department of the Air Force in their reports to the Committee stated they were in favor of the amendment. A favorable report was also received from the Civil Service Commission.

"The bill H.R. 7135, as amended by the Committee, would amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243) to increase from \$10,000 to \$15,000 the amount of a claim for damage to or loss of personal property incident to service which may be paid by—

"(a) The Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

"(b) the Secretary of Transportation, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy; or

"(c) the Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard.

"H.R. 7135, as amended by the Committee, would, in addition, increase to \$15,000 the amount of such a claim which may be paid by the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency. Some of these other agencies now may pay a claim for no more than \$10,000; some only a claim for no more than \$6,500.

"As to the Military Departments and the Coast Guard, the present limitation on the payment of personnel claims incident to service was established in 1965. The elements of the Department of Defense and the Coast Guard have demonstrated their ability to administer this Act, as well as the other laws authorizing payment of claims against the United States, with fairness to the

claimants and concern for the protection of the public funds. Since the \$10,000 limitation was established, the cost of repairing or replacing property of the type whose loss or damage may give rise to claims within the terms and purpose of this Act has increased significantly. The increase is due primarily to the general inflationary trend which has raised the price of virtually all household items. One method of calculating increased costs of such goods is the consumer price index. According to the U.S. Bureau of Labor Statistics, the consumer price index in May 1964 was 92.7, and in May 1973 it was 131.5, an increase of 41.9 percent. If this increase is correlated with the Congressional intent in 1964, when the \$10,000 limit was established, at least \$14,190 would be required to provide the same protection today. A \$15,000 limit appears to be more in line with the current value of such property or its repair. An increase in the limit to \$15,000 would thus serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, of Government personnel. As to the Armed Forces such protection would be a further inducement for entering and continuing membership in the Armed Forces.

COST

"The additional cost to the Government is not possible of exact computation since it would relate only to those cases of large loss which would exceed the present limits. An indication of the potential for such losses can be gained from the report of the Department of the Air Force which details the experience of the military services as to claims which exceeded the \$10,000 limit in the period since July 1, 1969. In that period the Army had 53 such claims, the Navy 42 and the Air Force 53. Of course such an analysis would not result in the full increase being paid in every case for only the amounts proven and recognized under applicable regulations and standards as losses subject to compensation could be paid.

"The bill as originally introduced provided for a measure of retroactive effect in that it would have permitted a reconsideration of previously adjudicated claims to the extent of providing authority for the payment of proven losses which were not paid because of the previous limit for payments. It would have permitted payments up to the new limit upon application within one year of the effective date of a new law. However the committee has recommended an amendment striking this provision. It is felt that the new limit should have prospective force only.

"In summary, therefore, it can be said that Section 3 of the Act now provides for a limit of \$10,000 as to the military departments and the Coast Guard in subsection (a), and in subsection (b) there is a limit of \$6,500 for civilian departments or agencies, but (as a result of a 1972 amendment) the Peace Corps, the Overseas Private Investment Corporation, State Department, AID, USIA and the U.S. Arms Control and Disarmament Agency have \$10,000 limit.

"The amended bill would provide a uniform limit of \$15,000 for all agencies and departments.

"It is recommended that the amended bill be considered favorably."

In agreement with the views of the House of Representatives, this Committee recommends that the bill be favorably considered.

LEAH MAUREEN ANDERSON

The Senate proceeded to consider the bill (S. 3718) for the relief of Leah Maureen Anderson which had been reported from the Committee on the Judiciary with an amendment to strike out all af-

ter the enacting clause and insert the following:

That notwithstanding any statute of limitations, lapse of time, bars of laches, or any proceeding, jurisdiction is hereby conferred upon the Secretary of the Army and the United States District Court for the District of North Carolina to receive and adjudicate under the provisions of sections 2401 and 2672 of title 28, United States Code, any claim upon behalf of Leah Maureen Anderson of Hopkinsville, Kentucky, for compensation for personal injury, and expenses and damages sustained by her due to a collision on March 26, 1971, between a Department of the Army vehicle and the automobile in which she was a passenger on the Fort Bragg Military Reservation, North Carolina, such collision having occurred as the result of the alleged negligent operation of the truck by United States Army personnel while acting within the alleged scope of their Federal employment. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

SEC. 2. Such claim shall be filed with the Secretary of the Army, or his designee, no later than six months after the date of the enactment of this Act. In the event that an offer of settlement, if any, is not accepted on behalf of the aforesaid Leah Maureen Anderson, suit may be filed in the Federal district court no later than six months after the Secretary of the Army, or his designee, has mailed a notice of final disposition of the claim to the representatives of Leah Maureen Anderson.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1205), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE AMENDMENT

The purpose of the amendment is to enable the claimant to pursue her administrative remedies before instituting action in Federal District Court under the provisions of the Federal Tort Claims Act.

PURPOSE OF THE BILL AS AMENDED

The purpose of the bill, as amended, is to waive the statute of limitations which presently bars any action under the Federal Tort Claims Act which Maureen Anderson may file against the U.S. Government for compensation for injuries she sustained as the result of a collision on March 26, 1971, between a Department of the Army vehicle and the automobile in which she was a passenger on the Fort Bragg Military Reservation, N.C.

STATEMENT

The records of the Department of the Army disclose the following facts.

On March 26, 1971, at 1445 hours Sgt. Walter H. Richardson, age 31, was operating a passenger vehicle at Fort Bragg, N.C., in a southerly direction on Sixth Street. He had two passengers, Mrs. Maria L. Davidson, age 37, and Leah M. Anderson (the present claimant), who was then 5 years of age. Pvt. Johnnie O. Evans, age 18, was operating an Army vehicle and was proceeding in an easterly direction on C Street. Neither street has stop or warning signs. Sergeant Richardson was on the dominant road. At the time of the accident it was raining and the roads were wet. When Richardson was in the intersection of Sixth and C Streets, Private Evans' vehicle struck the right side of Sergeant Richardson's car.